IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8155 OF 2004

Ms.M.R.Avhad and Ors. .. Petitioners

Versus

The State of Maharashtra .. Respondents

Ms.Smita Mane with P.B.Shah for petitioners

Mr.Nitin Deshpande, A.G.P. for State.

CORAM : A.P.SHAH AND

S.C.DHARMADHIKARI, JJ.

DATE : 16TH OCTOBER 2004.

P.C.

1. Heard Advocates.

2. The challenge in this petition is to grant of Retail outlet Dealership by Respondent No.2.

3. It is contended that an advertisement was published by respondent No.2 in Daily "Deshdoot" inviting applications from interested candidates for appointment of dealers of retail outlets. In the advertisement under the caption "Manmad Region" Sr.No.67, it is mentioned that respondent No.2 intended to appoint dealer for Nandgaon. It was further mentioned that the said outlet was reserved for Scheduled Tribe (ST) category. It is contended that present petitioners were fulfilling required criteria and therefore, applied in pursuance of this advertisement. After scrutiny of their applications, they were invited for an interview by Dealer selection committee on 24th June 2004. They attended the interview. There were 10 candidates for outlet at Nandgaon. It is complained that interviews were completed on the same day and it was declared that respondent No.3 has been selected for appointment as retail outlet dealer.

4. The grievance of Ms.Mane, learned Counsel appearing for petitioners is that it was impossible for the selection committee to assess all the candidates and finalise the name within

such a short time. She submits that there is something wrong in the selection process but no information is supplied to petitioners despite requests. She submits that selection process is not fair and impartial. She submits that present respondent No.3 is a Doctor by profession and owns a clinic. She submits that he could not have been selected as he was not resident of Nandgaon.

5. With the assistance of learned Counsel, we have perused the advertisement. The advertisement clearly indicates that the retail dealership is reserved for candidate belonging to S.T. The adertisement does not stipulate that such candidate should be a resident of the place i.e. Nandgaon. A perusal of the terms and conditions reveal that candidate selected for dealership should personally manage and supervise day to day affairs. From this it is not possible to infer that he is required to reside at a place where the Retail Outlet is located. Other conditions also do not indicate any such requirement. That apart, the other grievance that respondent No.3 is ineligible because he is

a Doctor by profession is also without substance, inasmuch as the terms and conditions stipulate that if a person is serving he should resign from service for managing the retail outlet. A medical practitioner is not ineligible.

6. In the result, there is no substance in the complaint of petitioners. Award of retail dealership in favour of respondent No.3 cannot be faulted. The selection committee has evaluated and scrutinised the applications and has taken a decision to award the retail outlet to respondent No.3. Such decision does not warrant any interference at our hands in discretionary and equitable jurisdiction under Article 226 of the Constitution of India.

7. Petition dismissed.

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